

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SHANNON ABEL §
§
v. §
§
BCS INSURANCE COMPANY and §
NORTH AMERICAN BENEFITS §
COMPANY §

NOTICE OF REMOVAL
BY BCS INSURANCE COMPANY AND NORTH AMERICAN BENEFITS COMPANY

TO THE HONORABLE COURT:

Defendants BCS Insurance Company and North American Benefits Company hereby remove the action captioned Cause no. 2016-55855, *Shannon Abel v. BCS Insurance Company and North American Benefits Company* from the 234th Judicial District Court of Harris County, Texas, to this Honorable Court pursuant to 28 U.S.C. §§1441 and 1446 and, as grounds for removal, state as follows:

INTRODUCTION

1. This action arises from Plaintiff's claim of a wrongful denial of benefits under an occupational accident policy, bearing Policy no. 9613-000-621-010104 (the "Policy") issued by BCS Insurance Company ("BCS") to U.S. Gulf Coast Auto Sales, Inc.

2. On or about August 22, 2016, Plaintiff Shannon Abel filed an Original Petition (the "Petition"), in the 234th Judicial District Court of Harris, Texas, against BCS Insurance Company and North American Benefits Company (hereinafter, collectively "Defendants"), alleging breach of contract; breach of fiduciary duty; and various violations of the Texas Insurance Code for the Defendants' denial of Plaintiff's claim under the Policy.

3. On or about September 7, 2016, BCS was served with a copy of the Petition. *See* Citation included in Exhibit 1.

4. To date, North American Benefits Company has not been served.

PAPERS FROM REMOVED ACTION

5. As required by 28 U.S.C. §1446(a), as well as the Southern District's Local Rules, copies of all process, pleadings, orders, docket sheet, and other papers for this case on file in the 234th Judicial District Court of Harris County, Texas are attached collectively as Exhibit 1.

TIMELINESS OF REMOVAL

6. In accordance with 28 U.S.C. §1446(b), this Notice of Removal has been filed within thirty (30) days after service of Petition on BCS and has been filed within one year of the commencement of this action.

VENUE

7. Venue of this removal is proper under 28 U.S.C. §1441(a) because this Court is the United States District Court for the district and division corresponding to the place where the state court action was pending.

BASIS FOR REMOVAL - DIVERSITY OF CITIZENSHIP

8. This Court has original subject-matter jurisdiction over this action pursuant to 28 U.S.C. §1332, because Plaintiff, Shannon Abel, and Defendants are citizens of different states and the amount in controversy in this action exceeds \$75,000, exclusive of interest, attorneys' fees and costs.

9. Plaintiff, Shannon Abel, is a citizen of Texas with her residence located in Brazoria County, Texas. *See, Pet., ¶ 3, included in Exhibit 1.*

10. Plaintiff alleges that BCS is a “foreign insurance company.” *See*, Pet., ¶ III, included in Exhibit 1. On August 22, 2016, the date on which Plaintiff filed her petition in State Court, and also on October 7, 2016, the date on which Defendants filed this Notice of Removal to this Court, BCS was incorporated in Ohio with its principal place of business in Oakbrook Terrace, IL.

11. Plaintiff alleges that North American Benefits Company is a “foreign insurance company.” *See*, Pet., ¶ III, included in Exhibit 1. On August 22, 2016, the date on which Plaintiff filed her petition in State Court, and also on October 7, 2016, the date on which Defendants filed this Notice of Removal to this Court, North American Benefits Company was incorporated in Pennsylvania with its principal place of business in Malvern, Pennsylvania.

NOTICE OF FILING NOTICE OF REMOVAL

12. In accordance with 28 U.S.C. §1446(d), concurrent to the filing of his Notice, Defendants are filing a copy of this Notice with the Clerk of the District Court for the 234th Judicial District Court of Harris County, Texas to effect this removal.

WHEREFORE, Defendants BCS Insurance Company and North American Benefits Company remove this action to this Court for all future proceedings and trial.

Respectfully submitted this 7th day of October, 2016.

LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/Sarah R. Smith

SARAH R. SMITH
Texas Bar No. 24056346
USDC-SD Texas Admission No. 1196616
sarah.smith@lewisbrisbois.com
24 Greenway Plaza, Suite 1400
Houston, Texas 77046
(713) 659-6767 Telephone
(713) 759-6830 Facsimile

*Attorneys for Defendant, BCS Insurance
Company and North American Benefits Company*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished to Plaintiff's counsel, noted below, via the Court's ECF filing system on this 7 day of October, 2016:

Muhammad S. Aziz
Abraham, Watkins, Nichols, Sorrels, Agosto & Friend
800 Commerce Street
Houston, TX 77002

Attorney for Plaintiff

/s/ Sarah R. Smith

Sarah R. Smith